[APPELLATE CRIMINAL JURISDICTION]

PALAN .. .. **Appellant**

vs.

THE PUBLIC PROSECUTOR .. **Respondent**

[JOHORE BAHRU CRIMINAL APPEAL No. 20 of 1932]

[MUAR CRIMINAL CASE No. 7 of 1932]

Criminal law—plea of guilty—evidence to be led before sentence passed.

In a case where the accused pleads guilty to the charge, it is the duty of the trial Judge before passing sentence to take evidence of the nature of the crime charged.

The appellant was charged under S. 326 of the Penal Code with voluntarily causing grievous hurt to one Anggamah by means of an instrument for cutting on the 23rd of February, 1932, at Belading, Johore. He was convicted on the plea and sentenced to 6 years' rigorous imprisonment. He appealed to the Court of Appeal.

On the hearing of the appeal the appellant denied that he had pleaded guilty in the Lower Court. The Public Prosecutor proceeded to read the Magistrate's Depositions.

MURISON, C.J. said:—In this case there is an appeal and the record only says: "Accused in person. Convicted on plea. Sentenced to 6 years' R.I."

As an appeal Court I think we ought to have some evidence taken by the trial Judge to indicate the nature and quality of the criminal act for which the sentence is given. Without that evidence we cannot be in a position to say whether the sentence is fair or not.

It is not in my opinion enough for the Public Prosecutor to read to us again the Depositions of the Magistrate.

I think in future the course I have indicated should be adopted. In this case I would dismiss the appeal.

TERRELL, J.—I agree.

Appeal dismissed.

[APPELLATE CRIMINAL JURISDICTION]

REX .. .. .. **(Respondent)**

vs.

TEO WOO TIN .. .. **(Appellant)**

[SINGAPORE DISTRICT COURT CASE No. 1592/32]

[SINGAPORE MAGISTRATE'S APPEAL No. 28 of 1932]

Liquors Revenue Ordinance No. 11 of 1927, Ss. 40 (1) & 77—dutiable liquor—considerations affecting sentence—forfeiture after conviction—criminal procedure—pleading of points of law.

In imposing fines under Ordinance No. 11 of 1927 (Liquors Revenue) a Magistrate should not deny the accused the benefit of leniency shown to first offenders, nor should he be influenced by considerations of the financial position of the Government. In determining the *quantum* of a fine a trial magistrate should take into consideration the profit arising from the offence, the value of the subject matter thereof, the amount of injury inflicted, and the financial circumstances of the offender.

The Appellate Court has power to order forfeiture of the liquor the subject-matter of the offence, though no such order was made by the trial Court.

In a petition of appeal under Section 295 (2) of the Criminal Procedure Code, the points of law relied upon should be set out specifically.

Appeal to the Supreme Court by the Appellant from a conviction by the Criminal District Judge, Singapore, on a charge of storing or keeping on his licensed premises dutiable liquor in contravention of Ss. 40 (1) and 77 of Ordinance No. 11 of 1927.

The findings of facts of the case are incorporated in the following grounds of Judgment.

WILSON, D.J.—(1) On account of certain suspicions some officers of the Monopolies Departments were posted to watch the premises of the appellant who was accused No. 4 in D.C. 1592/32. I accept their version of what they saw.

(2) At 6-30 a.m. on 4/8/32 a lorry drove up to the premises. The appellant helped to carry two baskets of vegetables into the shop. When the men accompanying the lorry saw the Revenue Officers they tried to escape thus proving their guilty knowledge. Similarly the accused locked the door leading into the back part of his premises and was seen throwing the bag containing a motor tube of bukit samsu over the party wall into the back yard of the next door house.

(3) No question of a plant can therefore arise. Accused took in the liquor himself and got rid of it without examining it proving he was expecting liquor and knew what the bag contained.